

OA 91 Criminal Complaint

United States District Court

NORTHERN

DISTRICT OF

CALIFORNIA

UNITED STATES OF AMERICA
V.

FILED

OCT 17 2007

CRIMINAL COMPLAINT

3 - 07 - 70607

BRUCE NHOUTHAKITH

Case Number: _____

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

EMC

(Name and Address of Defendant)

I, the undersigned complainant being duly sworn state that the following is true and correct to the best of my knowledge and belief. On or about October 16, 2007 in San Mateo County, in the Northern District of California defendant(s) did,

(Track Statutory Language of Offense)

knowingly and intentionally possess one or more books, magazines, periodicals, films, videotapes, or other matter which contain one or more visual depictions that have been shipped or transported in interstate or foreign commerce, by any means including by computer, where the producing of such visual depictions involved the use of a minor engaging in sexually explicit conduct and such visual depictions are of such conduct,

in violation of Title 18 United States Code, Section(s) Section 2252(a)(4)(B)

I further state that I am a(n) Special Agent, Immigration & Customs Enforcement and that this complaint is based on the following facts:
Official Title

See attached affidavit of Special Agent Diana Alvarez, attached hereto and incorporated fully herein by reference

Penalties:

10 years' imprisonment, \$250,000 fine, 3 years supervised release, \$100 special assessment
Mandatory minimum of 10 years and maximum of 20 years may apply based on any prior convictions

Continued on the attached sheet and made a part hereof:

☒ Yes ☐ No

Approved

As To

Form:

AUSA

Kyle Walding

Name/Signature of Complainant

Sworn to before me and subscribed in my presence,

October 17, 2007

Date

at

San Francisco, California

City and State

Edward M. Chen

United States Magistrate Judge

Name & Title of Judicial Officer

James Larson

Signature of Judicial Officer

JAMES LARSON

U.S. CHIEF MAGISTRATE JUDGE

UNITED STATES DISTRICT COURT }
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NORTHERN DISTRICT OF CALIFORNIA }

ss. AFFIDAVIT

I, Diana Alvarez, Special Agent, U.S. Immigration and Customs Enforcement (ICE), first being duly sworn, do depose and state:

I. AGENT BACKGROUND AND PURPOSE OF AFFIDAVIT

1. I am a Special Agent (SA) with U.S. Immigration and Customs Enforcement (ICE), assigned to the office of the Resident Agent in Charge, San Francisco International Airport, (RAC/SI) and have been employed by ICE since December of 2006. Prior to my employment with ICE, I was employed as a Data Analyst for a government contractor assigned to ICE for five years. I hold a Bachelor's degree in Criminal Justice from John Jay College of Criminal Justice in New York, New York. I have completed ICE Special Agent Training and the Criminal Investigator Training Program at the Federal Law Enforcement Training Center in Brunswick, Georgia.

a. I am responsible for enforcing federal criminal statutes including the sexual exploitation of children, pursuant to Title 18, United States Code, Sections 2252 and 2252A. I have received training and actual experience relating to Federal Criminal Procedures, Federal Statutes and U.S. Immigration and Customs Regulations. This includes training in investigative techniques and violations of Title 18, United States Code, including specifically 18 U.S.C. sections 2252(a)(1) and 2252(a)(4)(b) involving the transportation and possession of child pornography. As an agent with ICE, I have assisted with child pornography investigations by having reviewed images containing child pornography in a variety of formats (such as digital still images and video images) and media (such as videotapes, compact disks and printed images). In the course of the investigation described herein, I have consulted with other federal agents, including ICE agents at the San Francisco Airport who have written affidavits for or participated in the application for and execution of hundreds of search warrants over the course of their careers.

b. As a Special Agent of ICE, I am authorized to investigate violations of laws of the United States, and I am a law enforcement officer with authority to execute arrest and search warrants under the authority of the United States.

2. This affidavit is made in support of a complaint against Bruce NHOUTHAKITH, date of birth April 6, 1958, for knowingly and intentionally possessing one or more books, magazines, periodicals, films, videotapes, or other matter which contains one or more visual depictions that have been shipped or transported in interstate or foreign commerce, by any means including by computer, where the producing of such visual depictions involved the use of a minor engaging in sexually explicit conduct and such visual depictions are of such conduct, in violation of Title 18, U.S.C., Section 2252 (a)(4)(B).

3. The facts set forth in this affidavit are known to me as a result of my participation in this investigation, from reports made to me by other law enforcement officers, and from records, documents, and other evidence obtained during this investigation. Since this affidavit is being submitted for the limited purpose of outlining the offensive conduct of Bruce NHOUTHAKITH, I have not included each and every fact known to me concerning this investigation. I have only set forth the facts I believe are necessary to establish probable cause that a violation of federal law has occurred.

II. FACTS ESTABLISHING PROBABLE CAUSE

4. On October 16, 2007, at approximately 1920 hours Bruce NHOUTHAKITH, date of birth April 6, 1958, arrived at San Francisco International Airport (SFO) from Bangkok, Thailand aboard China Airlines flight number 004. NHOUTHAKITH was referred for a secondary customs examination based upon his National Crime Information Center (NCIC) record as a registered sex offender in the state of Nebraska. NHOUTHAKITH presented his passport, boarding pass, and airline tickets to U.S. Customs and Border Protection (CBP) Officer Raul Hernandez and said he was returning from a three-week trip to Laos. CBPO Hernandez asked NHOUTHAKITH if he owned the bags he was carrying. NHOUTHAKITH claimed ownership of all his luggage and all contents therein. During the inspection of

NHOUTHAKITH's baggage, CBPO Hernandez discovered approximately ten 8 mm videotapes, an 8 mm Sony video camera, various CDs and other digital media storage devices.

5. CBPO Hernandez asked Senior CBPO Wendy Coleman for assistance in viewing the media for contraband. CBPOs Hernandez and Coleman examined a videotape on a CBP camcorder and observed NHOUTHAKITH, who appeared to be naked, with a minor female who appeared to be approximately four to six years old sitting on his lap. In the video NHOUTHAKITH is fondling the vagina of this minor female over her dress. The female says, "I want to go home" a few times as NHOUTHAKITH continues to rub his hand over her vagina. SA Ryan Hirt and I were contacted to the airport to assist in the investigation.

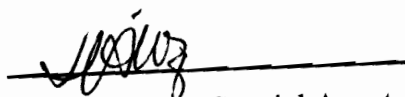
6. SA Ryan Hirt and I viewed the videotape that CBP had examined. SA Hirt and I concluded that it was in fact a female minor NHOUTHAKITH was fondling. At approximately 2250 hours I read NHOUTHAKITH his Miranda rights from a standard ICE Miranda form. I then asked NHOUTHAKITH to read the form. After NHOUTHAKITH read the form, I asked him if he understood his rights. He said he did. I asked him if he was willing to waive his rights and answer questions. He said he was. NHOUTHAKITH was then asked to initial each line listed on the form and sign on the bottom. After NHOUTHAKITH signed the form, I proceeded to ask him if he has ever purchased, viewed or taken pictures of naked minor females. NHOUTHAKITH said no. I asked NHOUTHAKITH if he ever sexually molested minor females. NHOUTHAKITH said no. I showed NHOUTHAKITH the videotape and asked what he was doing to the little girl on the tape. NHOUTHAKITH said his hand was "on her thing." I asked NHOUTHAKITH if by "thing" he meant vagina. NHOUTHAKITH said yes. I asked NHOUTHAKITH why he had his hand on her vagina. NHOUTHAKITH replied, "I don't know. I know it's wrong."

III. CONCLUSION

7. Based on the above facts and information, I submit there is probable cause to believe that on October 16, 2007, in the Northern District of California, Bruce NHOUTHAKITH did knowingly and intentionally possess one or more books, magazines, periodicals, films, videotapes, or other matter which contains one or more visual depictions

that have been mailed, or have been shipped or transported in interstate or foreign commerce, or which were produced using materials which had been mailed or so shipped or transported, by any means including by computer, where the producing of such visual depictions involved the use of a minor engaging in sexually explicit conduct and such visual depictions are of such conduct, in violation of Title 18, U.S.C., Section 2252 (a)(4)(B).

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.



Diana Alvarez, Special Agent
U.S. Immigration and Customs Enforcement
U.S. Department of Homeland Security

Sworn to before me, and subscribed in my presence,

This 4th day of October, 2007.



~~HON. EDWARD M. CHEN~~

United States Magistrate Judge

JAMES LARSON
U.S. CHIEF MAGISTRATE JUDGE